

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Block Communications, Inc., *et al.*,

Case No. 3:18-cv-1315

Plaintiffs,

v.

ORDER

Moorgate Capital Partners, LLC, *et al.*,

Defendants.

Defendants Moorgate Capital Partners, LLC, Moorgate Securities, LLC, and Defendant-Counterclaim Plaintiff LMC Southeast Cable Partners, LLC, have filed a motion for attorney fees and costs. (Doc. No. 82). Plaintiffs-Counterclaim Defendants Block Communications, Inc. and BCI Mississippi Broadband, LLC, seek leave to file a sur-reply brief in opposition to that motion. (Doc. No. 98).

A court may grant leave to file a sur-reply brief if the party seeking to file the sur-reply brief has shown there is good cause to support that additional filing, such as the need to address an issue that was raised for the first time in a reply brief. *See, e.g., Key v. Shelby Cnty.*, 551 F. App'x 262, 264-65 (6th Cir. 2014); *Geiger v. Pfizer, Inc.*, 271 F.R.D. 577, 580-81 (S.D. Ohio 2010).

Plaintiffs contend leave to file a sur-reply brief is warranted because Defendants made numerous arguments in their reply brief that they did not raise in their brief in support of their motion. (Doc. No. 98 at 1-2). But, as Plaintiffs concede, Defendants raised these arguments in

response to arguments Plaintiffs made in their opposition brief. (*Id.*). As it was Plaintiffs who raised the arguments and issues in their opposition brief, they “cannot claim to be unfairly surprised that [Defendants] responded.” *Boynton Beach Firefighters’ Pension Fund v. HCP, Inc.*, No. 3:16-CV-1106, 2020 WL 5939159, at *1 (N.D. Ohio Sept. 30, 2020). Therefore, I deny Plaintiffs’ motion for leave. (Doc. No. 98).

Further, I deny without prejudice Defendants’ motion for attorney fees. (Doc. No. 82). Each of the three relevant Agreements require that final judgment be entered before fees and costs may be awarded. (Doc. No. 49-3 at 15, 24, and 48). Final judgment has not yet been entered because I have not adjudicated all of “the claims or the rights and liabilities” of the parties, Fed. R. Civ. P. 54(b), and an appeal does not yet lie from my Memorandum Opinion and Order ruling on the parties’ summary judgment motions. Fed. R. Civ. P. 54(a). Defendants may renew their motion and file supplemental documentation of fees and costs once the valuation process is completed and I have entered an award of damages. No additional legal memoranda regarding attorney fees may be filed without first obtaining leave of court or pursuant to a future order.

So Ordered.

s/ Jeffrey J. Helmick
United States District Judge